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By: **Delegates Dumais, Vallario, Anderson, Gutierrez, Hennessy, Lee, and  
Simmons**

Introduced and read first time: February 13, 2004

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Controlled Dangerous Substance Crimes - Minimum Penalties - Repeal**

3 FOR the purpose of repealing certain minimum penalties for certain repeat offenders  
4 of crimes involving certain controlled dangerous substances and persons  
5 convicted in connection with certain amounts of certain controlled dangerous  
6 substances; providing a certain penalty for a certain crime; and generally  
7 relating to penalties for controlled dangerous substance crimes.

8 BY repealing and reenacting, with amendments,  
9 Article - Criminal Law  
10 Section 5-607 through 5-609 and 5-612  
11 Annotated Code of Maryland  
12 (2002 Volume and 2003 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article - Criminal Law**

16 5-607.

17 [(a)] Except as provided in §§ 5-608 and 5-609 of this subtitle, a person who  
18 violates a provision of §§ 5-602 through 5-606 of this subtitle is guilty of a felony and  
19 on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
20 \$15,000 or both.

21 [(b) (1)] A person who has been convicted previously under subsection (a) of  
22 this section shall be sentenced to imprisonment for not less than 2 years.

23 (2) The court may not suspend the mandatory minimum sentence to less  
24 than 2 years.

25 (3) Except as provided in § 4-305 of the Correctional Services Article, the  
26 person is not eligible for parole during the mandatory minimum sentence.]

1 5-608.

2 (a) Except as otherwise provided in this section, a person who violates a  
3 provision of §§ 5-602 through 5-606 of this subtitle with respect to a Schedule I or  
4 Schedule II narcotic drug is guilty of a felony and on conviction is subject to  
5 imprisonment not exceeding 20 years or a fine not exceeding \$25,000 or both.

6 (b) [(1) A person who is convicted under subsection (a) of this section or of  
7 conspiracy to commit a crime included in subsection (a) of this section shall be  
8 sentenced to imprisonment for not less than 10 years and is subject to a fine not  
9 exceeding \$100,000 if the person previously has been convicted once:

10 (i) under subsection (a) of this section or § 5-609 of this subtitle;

11 (ii) of conspiracy to commit a crime included in subsection (a) of this  
12 section or § 5-609 of this subtitle; or

13 (iii) of a crime under the laws of another state or the United States  
14 that would be a crime included in subsection (a) of this section or § 5-609 of this  
15 subtitle if committed in this State.

16 (2) The court may not suspend the mandatory minimum sentence to less  
17 than 10 years.

18 (3) Except as provided in § 4-305 of the Correctional Services Article, the  
19 person is not eligible for parole during the mandatory minimum sentence.

20 (4)] A person convicted under subsection (a) of this section is not  
21 prohibited from participating in a drug treatment program under § 8-507 of the  
22 Health - General Article because of the length of the sentence.

23 [(c) (1) A person who is convicted under subsection (a) of this section or of  
24 conspiracy to commit a crime included in subsection (a) of this section shall be  
25 sentenced to imprisonment for not less than 25 years and is subject to a fine not  
26 exceeding \$100,000 if the person previously:

27 (i) has served at least one term of confinement of at least 180 days  
28 in a correctional institution as a result of a conviction under subsection (a) of this  
29 section, § 5-609 of this subtitle, or § 5-614 of this subtitle; and

30 (ii) has been convicted twice, if the convictions arise from separate  
31 occasions:

32 1. under subsection (a) of this section or § 5-609 of this  
33 subtitle;

34 2. of conspiracy to commit a crime included in subsection (a)  
35 of this section or § 5-609 of this subtitle;



- 1 (4) 1-piperidinocyclohexanecarbonitrile;
- 2 (5) N-ethyl-1-phenylcyclohexylamine;
- 3 (6) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 4 (7) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 5 (8) lysergic acid diethylamide; or
- 6 (9) 750 grams or more of 3, 4-methylenedioxymethamphetamine  
7 (MDMA).

8 [(b) (1) A person who is convicted under subsection (a) of this section or of  
9 conspiracy to commit a crime included in subsection (a) of this section shall be  
10 sentenced to imprisonment for not less than 10 years and is subject to a fine not  
11 exceeding \$100,000 if the person previously has been convicted once:

12 (i) under subsection (a) of this section or § 5-608 of this subtitle;

13 (ii) of conspiracy to commit a crime included in subsection (a) of this  
14 section or § 5-608 of this subtitle; or

15 (iii) of a crime under the laws of another state or the United States  
16 that would be a crime included in subsection (a) of this section or § 5-608 of this  
17 subtitle if committed in this State; or

18 (iv) of any combination of these crimes.

19 (2) The court may not suspend the mandatory minimum sentence to less  
20 than 10 years.

21 (3) Except as provided in § 4-305 of the Correctional Services Article, the  
22 person is not eligible for parole during the mandatory minimum sentence.

23 (c) (1) A person who is convicted under subsection (a) of this section or of  
24 conspiracy to commit a crime included in subsection (a) of this section shall be  
25 sentenced to imprisonment for not less than 25 years and is subject to a fine not  
26 exceeding \$100,000 if the person previously:

27 (i) has served at least one term of confinement of at least 180 days  
28 in a correctional institution as a result of a conviction under subsection (a) of this  
29 section, § 5-608 of this subtitle, or § 5-614 of this subtitle; and

30 (ii) if the convictions do not arise from a single incident, has been  
31 convicted twice:

32 1. under subsection (a) of this section or § 5-608 of this  
33 subtitle;



- 1 (2) 448 grams or more of cocaine;
- 2 (3) 448 grams or more of any mixture containing a detectable amount of  
3 cocaine;
- 4 (4) 50 grams or more of cocaine base, commonly known as "crack";
- 5 (5) 28 grams or more of morphine or opium or any derivative, salt,  
6 isomer, or salt of an isomer of morphine or opium;
- 7 (6) any mixture containing 28 grams or more of morphine or opium or  
8 any derivative, salt, isomer, or salt of an isomer of morphine or opium;
- 9 (7) 1,000 dosage units or more of lysergic acid diethylamide;
- 10 (8) any mixture containing the equivalent of 1,000 dosage units of  
11 lysergic acid diethylamide;
- 12 (9) 16 ounces or more of phencyclidine in liquid form;
- 13 (10) 448 grams or more of any mixture containing phencyclidine;
- 14 (11) 448 grams or more of methamphetamine; or
- 15 (12) any mixture containing 448 grams or more of methamphetamine.

16 (b) For the purpose of determining the quantity of a controlled dangerous  
17 substance involved in individual acts of manufacturing, distributing, dispensing, or  
18 possessing with intent to manufacture, distribute, or dispense under subsection (a) of  
19 this section, the acts may be aggregated if each of the acts occurred within a 90-day  
20 period.

21 [(c) (1) A person who is convicted under § 5-602 of this subtitle with respect  
22 to a controlled dangerous substance in an amount indicated in subsection (a) of this  
23 section shall be sentenced to imprisonment for not less than 5 years.

24 (2) The court may not suspend any part of the mandatory minimum  
25 sentence of 5 years.

26 (3) Except as provided in § 4-305 of the Correctional Services Article, the  
27 person is not eligible for parole during the mandatory minimum sentence.]

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
29 effect October 1, 2004.